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of the United States Court of Customs and Patent Appeals and the United States Customs Court

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This issue contains

DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

(T.D. 74-78)

Customs Delegation Order No. 48—Amended

Order of the Commissioner of Customs delegating certain authority

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., February 27, 1974.

By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), as amended, Customs Delegation Order No. 48 (T.D. 73-302, 38 F.R. 30455) is hereby amended by inserting "Customs Officers (excepted)," before "Customs Inspectors (excepted)," in paragraph (1)b. so that it reads as follows:

> b. The Directors, Inspection and Control Division and Patrol Division, Headquarters, Office of Operations, may designate persons as Customs Officers (excepted), Customs Inspectors (excepted), Customs Patrol Officers (excepted) or Customs Warehouse Officers (excepted) and may revoke designations; * * *

(MAN-17-01)

VERNON D. ACREE,
Commissioner of Customs.

[Published in the Federal Register March 8, 1974 (39 FR 9212)]

(T.D. 74-79)

Foreign currencies—Daily rates for countries not on quarterly list

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, Philippine peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., February 25, 1974.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buy-

ing rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR, Part 159, Subpart C).

Hong Kong dollar:	
February 11, 1974	$0.1965
February 12, 1974	Holiday
February 13, 1974	.1960
February 14, 1974	.1965
February 15, 1974	.1965
Iran rial:	
February 11, 1974	$0.0149
February 12, 1974	Holiday
February 13, 1974	.0149
February 14, 1974	.0149
February 15, 1974	.0149
Philippine peso:	
February 11, 1974	$0.1495
February 12, 1974	Holiday
February 13, 1974	.1490
February 14, 1974	.1490
February 15, 1974	.1495
Singapore dollar:	
February 11, 1974	$0.4030
February 12, 1974	Holiday
February 13, 1974	.4030
February 14, 1974	.4030
February 15, 1974	.4025
Thailand baht (tical):	
February 11, 1974	$0.0495
February 12, 1974	Holiday
February 13, 1974	.0495
February 14, 1974	.0495
February 15, 1974	.0495

(LIQ-3-O:A:E)

R. N. MARRA,
Director,
Duty Assessment Division.

(T.D. 74–80)

Foreign currencies—Certification of rates

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., February 26, 1974.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 74–40 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Italy lira:

February 18, 1974	Holiday
February 19, 1974	$0.001534
February 20, 1974	.001536
February 21, 1974	.001539

Switzerland franc:

February 18, 1974	Holiday
February 19, 1974	$0.3178
February 20, 1974	.3195
February 21, 1974	.3227
February 22, 1974	.3262

(LIQ–3–O:D:T)

R. N. MARRA,
Director,
Duty Assessment Division.

[Published in the Federal Register March 8, 1974 (39 FR 9212)]

(T.D. 74-81)

Cotton textiles—Restriction on entry

Restriction on entry of cotton textiles and cotton textile products in certain categories manufactured or produced in various countries

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 4, 1974.

There is published below the directive of February 22, 1974, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, amending various levels of restraint established in previous directives for cotton textiles. This directive amends but does not cancel that Committee's directive of December 27, 1973 (T.D. 74-30).

This directive was published in the Federal Register on February 27, 1974 (93 FR 7612), by the Committee.

(QUO-2-1)

R. N. MARRA,
Director,
Duty Assessment Division.

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

February 22, 1974.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

Pursuant to a further offer by the United States Government to certain of its bilateral cotton textile agreement partners to export to the United States additional quantities of cotton yarn and/or fabric, and in accordance with the procedures of Executive Order 11651 of March

3, 1972, you are directed to permit entry into the United States for consumption or withdrawal from warehouse for consumption of cotton textiles and cotton textile products in the additional amounts and from the countries listed in the enclosed table. Entries are to be charged against the current levels of restraint established in previous directives for the categories and countries specified, as increased by the indicated ex-quota amounts. These ex-quota amounts are in addition to those specified in the directive of December 27, 1973, as amended. They will not become part of the restraint levels of the affected categories for purposes of adjustment in subsequent years under the terms of the agreements.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 25, 1974 (39 FR 3430).

In carrying out the above directions entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the governments of the countries indicated and with respect to imports of cotton textiles and cotton textile products from those countries have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore the directions to the Commissioner of Customs being necessary to the implementation of such actions fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance

Enclosure

Additional Ex-Quota Quantities

Country	*Category*	*Additional Amount*
Brazil	1–4	108,696 pounds
	9	3,000,000 square yards
	18/19 and part of 26 (printcloth) [1]	2,000,000 square yards
	22/23	3,000,000 square yards
China, Republic of	5/6	85,600 square yards
	9/10	1,028,880 square yards
	18/19	2,140,995 square yards
	22/23	168,797 square yards
	26/27	809,889 square yards
Colombia	5–27	5,000,000 square yards
	5/6	300,000 square yards
	9/10	500,000 square yards
	16	750,000 square yards
	22/23	2,800,000 square yards
	26 (other than duck) [2]	400,000 square yards
	26 (duck) [3]	150,000 square yards
	27	100,000 square yards
Mexico	5–27 and part 64	12,000,000 square yards
	9/10	3,550,000 square yards
	22/23	4,650,000 square yards
	26/27 and part of 64 (knit fabrics)	3,800,000 square yards
Pakistan	9/10	5,000,000 square yards
	18/19 and part of 26 (Printcloth) [1]	2,000,000 square yards
	Part of 26 (duck) [3]	1,000,000 square yards

[1] In Category 26, the T.S.U.S.A. numbers for printcloth are:
320.—34 322.—34 327.—34
321.—34 326.—34 328.—34

[2] Excluding T.S.U.S.A. numbers:
320.—01 through 04, 06, 08 326.—01 through 04, 06, 08
321.—01 through 04, 06, 08 327.—01 through 04, 06, 08
322.—01 through 04, 06, 08 328.—01 through 04, 06, 08

[3] Including only those T.S.U.S.A. numbers excluded by footnote 2.

(T.D. 74-82)

Cotton textiles—Restriction on entry

Restriction on entry of cotton textiles manufactured or produced in the Republic of Korea

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 4, 1974.

There is published below the directive of February 19, 1974, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning the restriction on entry into the United States of cotton textiles in categories 26/27 (other than duck fabric and printcloth) manufactured or produced in the Republic of Korea.

This directive was published in the Federal Register on February 22, 1974 (39 FR 6770), by the Committee.

(QUO-2-1)

R. N. MARRA,
Director,
Duty Assessment Division.

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

February 19, 1974.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

On September 28, 1973, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning October 1, 1973 of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in the Republic of Korea, in excess of designated

levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Pursuant to paragraph 17 of the Bilateral Cotton Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to amend, effective as soon as possible, the level of restraint established in the aforesaid directive of September 28, 1973 for cotton textile products in Category 26/27 (other than duck fabric and printcloth) [2] to 2,929,344 square yards for the twelve-month period beginning October 1, 1973.[3]

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton textiles and cotton textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely yours,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance

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[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; for limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

[2] In Category 26, all T.S.U.S.A. Nos. except the following:

320.—01 through 04, 06, 08	326.—01 through 04, 06, 08
321.—01 through 04, 06, 08	327.—01 through 04, 06, 08
322.—01 through 04, 06, 08	328.—01 through 04, 06, 08
320.—34	326.—34
321.—34	327.—34
322.—34	328.—34

[3] This level has not been adjusted to reflect any entries made on or after October 1, 1973.

Decisions of the United States Court of Customs and Patent Appeals

Number 71/99 [C.D. 4486, decided November 29, 1973]

SENECA GRAPE JUICE CORP. v. THE UNITED STATES

Decided: February 28, 1974

PER CURIAM.

This matter comes before us on petitioner's motion to accept its appeal for filing, with a request for an order permitting filing of the Notice of Appeal and related materials received by your court on January 29, 1974, *nunc pro tunc* as of January 28, 1974."

The envelope in which the notice of appeal was received by certified mail is stamped "RECEIVED JAN 29 1974 UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS" and is postmarket "NEW YORK, N.Y. CHURCH STREET STA. 78 JAN 25 P.M." There is no showing that the date of actual receipt was earlier than the stamped date, and petitioner does not contend otherwise. Inasmuch as the final order of the Customs Court from which the appeal is taken was entered November 29, 1973,[1] the filing of the notice of appeals appears to be one day later than the sixty-day period provided by 28 USC 2601(a).[2]

The motion is accompanied by an affidavit setting forth that the notice of appeal was placed in the U.S. mail depository at 401 Broadway, New York, New York 10013 at approximately 1:30 P.M. on Friday, January 25, 1974, and that in the affiant's experience normal mail delivery from said depository to points in the Washington, D.C., area almost always overnight.

In its memorandum in support of the motion, petitioner cites 28 USC 2601(a) and Rule 3.1(a) of this court to support its proposition that "Filing within sixty days * * * is not a requirement of the applicable

[1] *Seneca Grape Juice Corp.* v. *United States*, 71 Cust. Ct. ——, C.D. 4486.

[2] Section 2601(a) provides: "A party may appeal to the Court of Customs and Patent Appeals from a final judgment or order of the Customs Court within sixty days after entry of the judgment or order."

statute or rule." However, petitioner apparently has overlooked section 2601(b), which provides: "An appeal is made by filing in the office of the clerk of the Court of Customs and Patent Appeals a notice of appeal * * * ." Rule 3.1(a) of this court, which provides that any party dissatisfied with any appealable decision of the Customs Court may have a review thereof "by filing a notice of appeal, in duplicate, in the office of of the clerk of this court," could hardly enlarge the statutory sixty-day period. Rule 26(b) of the Federal Rules of Appellate Procedure specifies that "the court may not enlarge the time for filing a notice of appeal * * *."[3]

The above-referred-to affidavit, citing signed certified mail receipts, shows that the Assistant Attorney General, Civil Division, Customs Section, the Assistant Chief Counsel for Customs Court Litigation, and the Customs Court received copies of the notice of appeal on January 28, 1974. Therefore, petitioner argues that "the government" has not been prejudiced and (in substance) that it should not object to using the date of mailing rather than the date of filing, which was delayed "because of the inordinately long period of time taken by the U.S. Postal Service to deliver the appeal." However, "the government" to which petitioner refers is the Department of Justice, which is part of the executive branch of our federal government. Being charged with execution of the laws, it must object if it perceives that the law enacted by the legislative branch would be violated by using anything other than the filing date of the notice of appeal.

Finally, if there should be any doubt over the meaning of "filing," Rule 25(a) of the Federal Rules of Appellate Procedure provides that "filing shall not be timely unless the papers are *received by the clerk* within the time fixed for filing * * *." (Emphasis supplied.)[4] Pursuant to 28 USC 2072, these rules, after promulgation by the Supreme Court, were reported to the Congress at or after the beginning of a regular session thereof and became effective more than ninety days after they had been thus reported. No action having been taken by the Congress with respect to Rule 25(a), Congressional approval thereof and of its interpretation of what constitutes "filing" is to be presumed. Accordingly, any relief from the interpretation of "filing" provided by this rule must be sought by way of general or special legislation of the Congress.

It is, therefore, ORDERED that petitioner's motion be, and hereby is, denied.

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[3] Rule 1.4(a) of this court provides that "The Federal Rules of Appellate Procedure shall govern any practice or procedure not specifically covered by these rules.

[4] Even before promulgation of the Federal Rules, this court had held that a motion was not "made" for purposes of 28 USC 2640 until "delivered"—i.e., "filed" with the clerk. *Mincap of California, Inc.*, v. *United States*, 55 CCPA 1, C.A.D. 926 (1967).

Decisions of the United States Customs Court

Protest Decision

(C.D. 4500)

JOHN V. CARR & SON, INC. *v.* UNITED STATES

Angles, shapes and sections—Parts of railroad cars

The importations in this case consisted of so-called rail measuring 53 feet in length which in their imported condition were angular in shape, had two curves called stiffening ribs, and had flanges on

either end to enable the rail to fit flush with the curvature of a railroad car. After importation, intermediate gussets were welded to the inside of the rail to stiffen it. Also, on occasion, between a half-inch or inch was trimmed off the rail as excess. The imported rails were dedicated for use and used solely as parts of railroad hopper cars. Plaintiff claimed that the imports were properly classifiable as angles, shapes and sections under item 609.80 of schedule 6, part 2 of the tariff schedules. *Held* that the imported rails were properly classified by the government under item 690.35 by virtue of headnote 1(iv) of schedule 6, part 2 of the tariff schedules which provides that "[t]his part does not include * * * other articles specially provided for elsewhere in the tariff schedules, or *parts of articles*." [Emphasis added.]

APPLICABILITY OF HEADNOTE 1(iv) OF SCHEDULE 6, PART 2 OF THE TARIFF SCHEDULES

Headnote 1(iv) excludes from classification under schedule 6, part 2, identifiable parts of an article solely or chiefly used as part of an article provided for, with its parts, in a superior heading of the tariff schedules.

PARTS—MATERIALS

Where an angle, shape or section has been so advanced in manufacture as to have reached a stage at which it is clearly incapable of being made into more than one article, and only insubstantial processing is required after importation, then the imported item, even though unfinished, is deemed to have been so dedicated to a single use as to fix its status as a part of that article. On the other hand, if in its imported condition, an angle, shape or section has been advanced in manufacture *only* to a point where substantial additional processing is necessary before it can be used as a part of a given article, the importation is not classifiable as a part, but rather would be considered a material and (if meeting the other statutory requirements) classifiable under a provision for angles, shapes and sections.

Court No. 72-7-01636

Port of Detroit

[Judgment for defendant.]

(Decided February 19, 1974)

Barnes, Richardson & Colburn (*Joseph Schwartz and Irving Levine* of counsel) for the plaintiff.

Irving Jaffe, Acting Assistant Attorney General (*Joseph I. Liebman*, trial attorney), for the defendant.

MALETZ, Judge: This action involves the proper tariff classification of articles imported in 1972 from Canada via the port of Detroit that were described on the special customs invoice as cold formed side rails, and on the consumption entry as parts for railway cars.

The goods were manufactured by Canadian Metal Rolling Mills, Ltd., Mississauga, Ontario (hereafter referred to as "Canadian Mills") and imported by ACF Industries, AMCAR Division, Huntington, West Virginia (hereafter referred to as "Amcar"). The plaintiff, John V. Carr & Son, Inc., is a customs broker, agent and attorney in fact for the importer.

The imported articles were assessed by the government under item 690.35 of the Tariff Schedules of the United States, as parts of railroad or railway cars, at 9% ad valorem. Plaintiff contents that the proper classification should be under item 609.80 as steel angles, shapes, or sections, cold formed, weighing over 0.29 pound per linear foot, not drilled, punched or otherwise advanced, and of other than alloy steel, at the rate of 0.1 cent per pound.

The pertinent provisions of the tariff schedules read as follows:

Assessed Under:

Schedule 6, part 6.

690.15	Railroad and railway rolling stock: Passenger, baggage, mail, freight and other cars, not self-propelled_	* * *
	* * * * * * *	
	Parts of the foregoing articles:	
	* * * * * * *	
	Other:	
690.35	Parts of cars provided for in item 690.15, except brake regulators_	9% ad val.

Claimed Under:

Schedule 6, part 2, headnote 1.

* * * This part does not include—

* * * * * * *

(iv) other articles specially provided for elsewhere in the tariff schedules, or parts of articles.

Schedule 6, part 2, subpart B, headnote 1.

This subpart covers iron and steel, their alloys, and their so-called basic shapes and forms, and in addition covers iron or steel waste and scrap.

Schedule 6, part 2, subpart B, headnote 3.

Forms and condition of iron or steel.—For the purposes of this subpart, the following terms have the meanings hereby assigned to them:

* * * * * * *

(j) Angles, shapes, and sections: Products which do not conform completely to the respective specifications set forth herein for blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, or tie plates, and do not include any tubular products.

* * * * * * *

Schedule 6, part 2, subpart B.

Angles, shapes, and sections, all the foregoing, of iron or steel, hot rolled, forged, extruded, or drawn, or cold formed or cold finished, whether or not drilled, punched, or otherwise advanced; sheet piling of iron or steel:

Angles, shapes, and sections:

Hot rolled; or, cold formed and weighing over 0.29 pound per linear foot:

Not drilled, not punched, and not otherwise advanced:

609.80 Other than alloy iron or steel ---------- 0.1¢ per lb.

I

We consider first the facts developed in the record.[1] The importer, Amcar, is in the business of building railroad cars and equipment and in this connection uses the imported side rail—which measures some 53 feet in length—as a structural stress carrying member of a railroad hopper car.

The importations—which are manufactured by Canadian Mills in accordance with Amcar's specifications and are not a stock item—are produced from a coil of steel which is fed into a set of three pinch rolls to eliminate the curvature. After this, the sheet metal is fed into a set of guides called a "mill entry." From there, the sheet goes into a continuous production cold roll forming machine—consisting of 15 forming passes—which gradually forms the steel sheet into its final shape. It is then cut off at the end of the line and bundled with other side rails for shipment.

Upon completion of this production process, the side rail is angular in shape; has two curves which are called stiffening ribs; and has

[1] The record consists of the testimony of two witnesses called by plaintiff, the first, John L. Goldie, the vice president and general manager of Canadian Mills, the second, John H. Snyder, the director of purchasing and traffic of Amcar. Both witnesses had academic training in engineering and commercial experience in the steel business. In addition, plaintiff introduced in evidence (1) a number of photographs which showed the imported articles, illustrated their process of manufacture, and showed their use in the manufacture of railroad hopper cars; and (2) a schematic drawing of the hopper car. Defendant did not call any witnesses or present any exhibits.

flanges on either end to enable the rail to fit flush with the curvature of the railroad hopper car.

When the imported side rail is received by Amcar, the first operation it performs is to weld intermediate gussets to its inside in order to stiffen it.[2] At this point, the imported rail is then transferred to a side blanket assembly line. This blanket assembly is composed of a series of steel sheets, butt welded together, which eventually form the side of the hopper car. The imported rail is welded directly to the top of the blanket assembly. In addition, various appurtenances are tack welded to other parts of the assembly. Parenthetically, it is to be noted that when Amcar starts building the blanket assembly, it does not know what the exact length of the assembly will be and hence it orders from Canadian Mills rail having the maximum length that it believes will be required. Sometimes, however, the length of the rail so ordered is between a half-inch or inch longer than the blanket assembly, in which case Amcar trims the excess off the edge. On the other hand, if the rail is less than a half-inch longer, the excess is regarded as insignificant and is not trimmed off.

Finally, the side blanket assembly, incorporating the imported rail, is welded to the intermediate and end bulkheads of the car and forms the side of the car.

The record further demonstrates that at the time of importation and immediately prior thereto, the imported merchandise was used only for incorporation into railroad stock of the kind described in item 690.15 of the tariff schedules. Also, it is established that the thickness of the imported rails does not vary along the lengths; that they are cold formed items which weigh over 0.29 pound per linear foot; and that they are not drilled, punched or otherwise advanced beyond the cold formed shape. Additionally, it is undisputed that the imported rails are not blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates or tubular products, as defined in schedule 6, part 2, subpart B, headnote 3(j).

In the opinion of the witness Goldie, vice president and general manager of the manufacturer, Canadian Mills, the imported articles are basic steel angular shapes which are symmetrical through their cross section and are rolled as a continuous process. Further, in his opinion, all steel angles, shapes and sections are ordinarily incorporated into other articles; there are very few that are complete for use as they are; and angles, shapes and sections which are drilled, punched or otherwise advanced, are dedicated to use as parts of articles.

---

[2] A gusset is an angular piece of iron used to strengthen angles. See e.g., Webster's *New International Dictionary* (2d. ed., 1958).

The imported rails were identified in the "PARTS LIST" of Amcar's schematic drawing of the hopper car as part No. 92 (side plate). In addition, plaintiff's witness Snyder, the director of purchasing for Amcar, described the imported rail as "an integral part of the car." He further testified that no bending or shaping was performed on the imported merchandise and that that part was merely assembled to the blanket assembly. According to Snyder, the imported articles are not similar to axles or wheels or brake regulators for railway cars since the latter items are classified in the railway car industry as "specialty" parts which are changeable from one car to another. Such specialty parts, he stated, do not become an integral part of the car, as does a structural member such as the imported rail. Continuing, he stated that specialty parts are severable in that they can be removed from the car without damaging it; on the other hand, the imported rail and other integral parts of the car can be removed only by burning them off, thus doing some damage to the car itself.[3]

II

Against this background, the question is whether or not the imported rails are "parts of articles" within the meaning of the exclusionary headnote 1(iv) of part 2 of schedule 6.[4] As to this, plaintiff argues (1) that the imported articles are not "parts of articles" within the meaning of the headnote but rather are materials—this on the asserted basis that further processing of the importations is required after importation; (2) that to hold that the importations are parts of articles would render the provision for steel angles, shapes and sections wholly or substantially nugatory; and (3) that the imported articles are steel angles, shapes or sections of the kind intended to be classified under item 609.80. Defendant, on the other hand, contends that since the imported merchandise is specially provided for under item 690.35 as parts of railroad cars, and since headnote 1(iv) of part 2 of schedule 6 precludes the classification under that part of articles specially provided for elsewhere and parts of articles, the imported merchandise, even if it is a basic shape within the ambit of item 609.80, remains classifiable under item 690.35. For the reasons that follow, the court agrees with defendant's position and holds that the imported

[3] As pointed out above, the imported rails were identified in Amcar's schematic drawing of the hopper car as parts. Further, Snyder repeatedly testified that the imported rail was an integral part or part of the car. See e.g., tr. pp. 35, 37, 45. In these circumstances, little credence can be given to Snyder's later assertion (tr. p. 59) that only "specialty parts" were considered to be "parts," while "parts for the items that make-up the integral car body itself [including the imported rails]" were *"consider[ed] to be raw material."* [Emphasis added.]

[4] This headnote, which has been previously quoted, provides that part 2 of schedule 6 does not include "other articles specially provided for elsewhere in the tariff schedules, or *parts of articles.*" [Emphasis added.]

articles were properly classified by the government under item 690.35 as parts of railroad cars.

III

Directly relevant to the problem here is this court's decision in *The Servco Company* v. *United States*, 68 Cust. Ct. 83, C.D. 4341 (1972), *aff'd*, 60 CCPA 137, C.A.D. 1098, 477 F. 2d 479 (1973). As this court pointed out (68 Cust. Ct. at 88):

> * * * [P]art 2, subpart B is intended to classify so-called basic shapes and forms of iron or steel, * * *. Schedule 6, part 2, headnote 1(iv), * * * which states that it does not include in any of its subparts, * * * other articles specially provided for elsewhere in the tariff schedules, or parts of articles, is obviously intended to exclude basic shapes and forms of metal, * * * that are specially provided for elsewhere in the tariff schedules. *The headnote, in our opinion, also excludes identifiable parts of an article solely or chiefly used as a part of an article provided for, with its parts, in a superior heading of the tariff schedules.* * * * [Emphasis added.]

Servco, it is to be noted, involved so-called drill collars in the shape and form of pipes and tubes of steel that were imported in 30 foot lengths and were solely used with earth boring machinery to weight the drilling bit. After importation, the drill collar was processed for that use by welding an alloy steel "sub" to one end of the article, or by cutting threads in one end. It was then attached immediately above the drilling bit. The merchandise was classified by the government as pipes and tubes of steel under item 610.52 which, like item 609.80, the claimed provision in the present case, comes within schedule 6, part 2, subpart B of the tariff schedules. The court held that since the imported articles—though unfinished—had no other use but to be finished into drill collars, and since drill collars were used solely as parts of boring machinery, they were, by virtue of headnote 1(iv), excluded from classification as pipes and tubes of steel and properly classifiable as parts of boring machinery under item 664.05, as claimed by plaintiff.

The considerations deemed controlling in *Servco* are equally applicable here. Thus, in the present case, the rails in question had been advanced in their manufacture to such a point that after importation no further processing was required save for welding intermediate gussets to their inside to stiffen them and for occasionally trimming between a half-inch or inch of excess metal from the edge.[5] In short, in their imported condition, the involved rails were virtually ready for

[5] Not only is trimming of this kind *de minimis*, it does not affect classification of the article. See e.g., *F. W. Myers & Co., Inc.* v. *United States*, 69 Cust. Ct. 30, C.D. 4370, 345 F. Supp. 1006 (1972); *American Manner Corp.* v. *United States*, 56 Cust. Ct. 31, 37, C.D. 2608 (1966).

use only as a part of the railroad stock described in item 690.15 requiring as they did merely insubstantial further processing. Put otherwise, the imported rails had been so far processed toward their completed form as a part of a railroad car as to be dedicated to the making of that article alone. As stated in *Steinway & Sons* v. *United States*, 23 Cust. Ct. 30, 33, C.D. 1185 (1949): "Where a material has been so advanced in manufacture as to have reached a stage in which it is clearly incapable of being made into more than one article, then it shall be deemed, even though unfinished, to have been so dedicated to a single use as to fix its status as a part of that article." Hence, even though the present merchandise in its imported condition was unfinished, it still is classifiable as a part of a railroad car—a conclusion that is emphasized by general interpretative rule 10(h) which provides that "unless the context requires otherwise, a tariff description for an article covers such article * * * whether finished or not finished * * *." See e.g., *United States* v. *The Servco Company*, *supra*, 60 CCPA at —, 477 F. 2d at footnote p. 582. See also e.g., *American Import Co.* v. *United States*, 26 CCPA 72, 74, T.D. 49612 (1938).

Added to this, plaintiff has conceded that at the time of importation and immediately prior thereto, the imported merchandise was used only for incorporation into railroad cars. Also, it is to be noted that in its imported condition, the rail in issue (as previously observed) is identified in Amcar's schematic drawing of a hopper car as a part; that it bears a part number; and that plaintiff's witness Snyder described it as an "integral part of the car." In sum, from what has been said, the conclusion is inescapable that the imported rail is a part and not a mere material. Indeed, in the circumstances of a case such as this, in order to constitute a mere material, substantial further processing or manufacturing would be necessary after importation before the merchandise became a completed product or a completed part of a product. See e.g., *Associated Metals & Minerals Corp.* v. *United States*, 65 Cust. Ct. 586, C.D. 4143, 320 F. Supp. 997 (1970).

Plaintiff contends, however, that in *Servco*, the goods involved were recognized articles, commonly and commercially known as drill collars, whereas in the present case the articles are not commercially or commonly known by any *eo nomine* designation other than angles, shapes or sections. The difficulty with this argument is that the record in the present case shows that the imported articles are known not as angles, shapes or sections, but rather as side rails or top rails.

Also relevant is *Braun-Steeple Co.* v. *United States*, 18 CCPA 437, T.D. 44683 (1931), which involved sheets of steel 6 feet in length and 3 feet in width, in which perforations had been stamped, forming various fancy designs. After importation, the merchandise was cut to shape

and form for use in radiator covers, panels in the ends of metal beds, lanterns, lighting fixtures, fire screens, etc. The court held that the importations were not mere sheets or stamped shapes under paragraph 304 of the Tariff Act of 1922—which paragraph, the court said, was "intended to provide for materials for further manufacturing processes and not for completely manufactured products." *Id.* at 440. Instead, the court held that since the involved articles had been so far processed as to be dedicated to particular uses, they were dutiable under paragraph 399 as partly-manufactured articles. Here, too, the imported merchandise had been so advanced and dedicated toward its ultimate use that it no longer consisted merely of a material for subsequent manufacturing processes but as an unfinished part of a railroad car. See e.g., *Burn Strauss, Inc.* v. *United States*, 62 Cust. Ct. 664, C.D. 3845, 305 F. Supp. 14 (1969).

IV

This brings us to plaintiff's further argument that to hold that the imported rails are "parts of articles" would render the provision for steel angles, shapes and sections wholly or substantially nugatory. In this connection, plaintiff adds that if headnote 1(iv) were applied to the imported rails "there would be little, if any, room for the application of the tariff on angles, shapes and sections, since they are practically all dedicated as parts of particular articles." (Br. p. 20) Under these circumstances, plaintiff asserts that "a holding that the term 'parts of articles' in the exclusionary headnote means 'products' but does not include basic materials, would resolve the possible conflict between 609.80 and the 'parts' provision." (Br. p. 19) In my view, the argument is without merit.

It may well be that most angles, shapes and sections are *ultimately* dedicated and used as parts of articles and that such *ultimate* use determines the form in which the angles, shapes and sections are made. See *United States* v. *The Singer Manufacturing Company*, 37 CCPA 104, 106, 107, C.A.D. 427 (1950). But this scarcely means that all angles, shapes and sections are parts *per se*. Thus, if in its imported condition, an angle, shape or section has been processed or advanced in manufacture *only* to a point where substantial additional processing is necessary before it can be used as a part of a given article, the import would not be classifiable as a "part," but rather would be considered a material and thus (if meeting the other statutory requirements) classifiable under a provision for angles, shapes and sections. See e.g., *United States* v. *The Singer Manufacturing Company*, *supra*, 37 CCPA 104; *Associated Metals & Minerals Corp.* v. *United States*, *supra*, 65 Cust. Ct. 586.

In point on this aspect is *Pistorino & Company, Inc.* v. *United States*, 69 Cust. Ct. 48, C.D. 4373, 350 F. Supp. 1392 (1972), appeal dismissed (1973). In that case, certain imported metal stampings or blanks which were used to manufacture latch needles by numerous other steps and by the addition of a latch were held to be properly dutiable as angles, shapes and sections under item 609.88 [6] rather than as unfinished latch needles under item 670.58.[7] Particularly pertinent is the following statement by the court (69 Cust. Ct. at 53–54):

> * * * According to the Tariff Classification Study, Schedule 6, page 89, subpart B sets forth an orderly systematic arrangement which would apply to iron and steel, their alloys, and their basic shapes and forms in addition to iron and steel waste and scrap. It therefore logically follows that the provision for angles, shapes and sections includes a more advanced product than item 609.13,[8] * * * *but is still a material. Burn Strauss, Inc.* v. *United States*, 62 Cust. Ct. 664, C.D. 3845, 305 F. Supp. 14 (1969). It is to be noted that the superior heading to item 609.88 includes the language "whether or not drilled, punched, or otherwise advanced." This is a clear indication that an advancement even to the point of dedication was intended to be included therein *so long as the article still remains material. Commercial Shearing & Stamping Company* v. *United States* (*Guadalupe Industrial Supply Company, Inc., Party in Interest*), 65 Cust. Ct. 91, C.D. 4060, 317 F. Supp. 750 (1970) [aff'd. 59 CCPA 203, C.A.D. 1067, 464 F. 2d 1048 (1972)]. [Emphasis added.]
>
> We have no difficulty in finding that the imported blanks are shapes which do not conform to the specifications set forth in headnote 3, schedule 6, part 2, subpart B. We further find that said blanks are dedicated to use as latch needle blanks but are not unfinished latch needles. *The record clearly establishes that nothing is done to the blanks after stamping and before shipping.* They are accordingly unadvanced shapes. *The record and exhibit 1 establish the numerous additional steps necessary to bring the blank to the point of being a latch needle.* [Emphasis added.]

To similar effect is a Bureau of Customs letter dated July 22, 1964 (T.D. 56377(48)) which reads in part:

> Shoe sections of steel, not alloyed, unfinished, delivered from a steel mill in sections of 20 to 30 feet, in a sort of tee form with one arm of the tee extended, *which, after importation, will be cut to size, drilled, and heat treated into replacement parts for crawler type tractors*, classifiable under the provision for Angles, shapes, and sections * * * hot rolled * * *; Not drilled, not punched,

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[6] Item 609.88 covers cold formed angles, shapes and sections other than alloy iron or steel and weighing not over 0.29 pound per linear foot.

[7] The numerous steps required to process the imported blanks into latch needles were described in detail in *Pistorino & Company, Inc.* v. *United States*, 53 Cust. Ct. 174 at 176, C.D. 2491 (1964).

[8] Item 609.13 covers plates, sheets, and strip of iron or steel, other than alloy iron or steel, cut, pressed or stamped to nonrectangular shape and valued over 8 cents per pound.

and not otherwise advanced: Other than alloy * * * steel, in *item 609.80*, TSUS. [Emphasis added.]

From the foregoing, it is apparent that contrary to plaintiff's contention, headnote 1(iv) in no wise renders nugatory the provisions for angles, shapes and sections so long as the article still remains a material.[9]

Moreover, even though many angles, shapes and sections may be advanced to the point where they are dedicated to use as parts, they still would be classifiable under the provisions for angles, shapes and sections if no specific provision for the part exists. For example, in *Commercial Shearing & Stamping Company* v. *United States*, *supra*, it was held that hemispherical shapes or heads—which were chiefly used as end closures on pressure containers designed and used for the transport and storage of compressed gases—were properly classified by the government as angles, shapes and sections under item 609.80—the same item that is involved here—rather than as articles of iron or steel, not specially provided for, under item 657.20, as claimed by plaintiff. While the record showed that the imported merchandise was a part of a metal pressure container designed and used for the transport and storage of compressed gases, item 640.10, which covers such containers, does not provide for parts.[10] For that reason, classification of the imported shapes as a part under item 640.10 was precluded and the articles were held properly classified as angles, shapes and sections under item 609.80—which item, the court held, was relatively more specific for the hemispherical shapes, in the condition imported, than item 657.20, the general provision for articles of iron or steel, not specially provided for.

V

Finally, plaintiff contents that it is clear from the legislative history that the Tariff Commission understood that angles, shapes and sections, as well as structural steel shapes are always parts of something, and that therefore the provisions for angles, shapes and sections and structural steel shapes would be rendered nugatory if they were to be classified as "parts." However, when, as here, the language of a statute, i.e., headnote 1(iv), is clear and unambiguous, resort may not be had to legislative history. See e.g., *George B. Zaloom* v. *United*

[9] Another Bureau of Customs letter dated June 29, 1964 (T.D. 56237 (145)) reads: Automobile tire rim bases made of hot rolled steel are classifiable under the provision for Sections * * * of iron or steel, hot rolled * * * not drilled, punched, or otherwise advanced * * *; * * * Other than alloy iron or steel, in item 609.80, TSUS.
It is not possible to ascertain from this Bureau letter whether the article in question in its imported condition did or did not require substantial further processing. Hence, since the facts set forth in the letter are insufficient to determine whether the article is a part or material, the letter sheds no light on the problem before us here.

[10] Item 640.10 covers "Metal pressure containers designed and used for the transport and storage of compressed gases: * * * Other."

States, 21 CCPA 518, 521–2, T.D. 46972 (1934); *F. Mastronardi, Inc.* v. *United States*, 27 CCPA 350, 353, C.A.D. 110 (1940); *Marcel Schurman* v. *United States*, 38 Cust. Ct. 56, 58, C.D. 1843 (1957).

In any event, examination of the legislative history fails to support plaintiff's argument. As originally proposed by the Tariff Commission, schedule 6, part 2, headnote 1, provided that

> * * * This part does not include—
>
> * * * * * * *
>
> (iv) other articles provided for elsewhere in the tariff schedules, or parts of articles.

See Tariff Classification Study, Explanatory and Background Materials, Schedule 6 (Nov. 15, 1960) p. 343 (hereafter referred to as the "Tariff Classification Study").

Also, in its original form, items 609.80 and 609.92 of schedule 6, part 2, subpart B, read in part as follows: (*Id.*, p. 371):

	Angles, shapes, and sections, all the foregoing, of iron or steel, hot rolled, forged, extruded, drawn, cold formed or cold finished, whether or not drilled, punched, or otherwise advanced, *or made by the assembly of components;* sheet piling of iron or steel: [Emphasis added.]	
	Angles, shapes, and sections:	
	Not drilled, not punched, not otherwise advanced, *and not made by the assembly of components:* [Emphasis added.]	
	Hot rolled:	
609.80	Other than alloy iron or steel----------	* * *
	* * * * * * *	
	Drilled, punched, otherwise advanced, *or made by the assembly of components:* [Emphasis added.]	
609.92	Other than alloy iron or steel ----------	* * *

In addition, as originally proposed, item 652.98 of schedule 6, part 3, subpart F read as follows (Tariff Classification Study, p. 437):

	Hangers and other buildings, bridges, bridge sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, door and window frames, shutters, balustrades, pillars and columns, and other structures and parts of structures, all the foregoing of base metal:	
	Of iron or steel:	
	* * * * * * *	
652.98	Other ----------	* * *

In the course of hearings before the Tariff Commission with respect to these proposed provisions, Peter N. Schiller, representing the American Institute for Imported Steel, Inc., testified as follows (Tariff Classification Study, p. 584):

> Finally, the attention of the institute was called by a number of persons to what they thought might be a possible conflict between item 652.98 * * * and the provisions of part 2, particularly those dealing with angles, shapes, and sections, items 609.80 et seq. * * *. The main caption above item 652.98 * * * deals with complete steel structures and parts thereof, such as hangars, bridges, towers, and the like. After enumerating "hangars and other buildings, bridges, bridge sections, block-gates," etc., the caption says: "and other structures and parts of structures." It has been suggested that the inclusion of the phrase "parts of structures" in this provision might conflict with or overlap the clear provisions for steel shapes in part 2 * * * items 609.80 et seq. That it is not intended that there be any overlapping seems to us quite clear. If, for example, punched angles or other shapes were to be classified as "parts of structures" under item 652.98 in part 3, instead of under item 609.92 in part 2, then all angles, shapes, and sections might equally well be so treated since all angles, shapes, and sections are pieces of structural steel used to make structures. Such an interpretation, which would eliminate almost any application of items 609.80 to 609.98 would be, of course, absurd. Nevertheless, to avoid any possible confusion, we have suggested that there be added at the end of the caption preceding item 652.98, after the phrase "parts of structures," the words "not provided for in part 2B of this schedule."

Also, in connection with these proposed provisions, Malcolm S. Langford, representing a foreign manufacturer and exporter of fabricated structural steel shapes, testified in part as follows (*Id.*, p. 608):

> I fully agree with Mr. Schiller that every fabricated structural steel shape is for use in some kind of structure and that, accordingly, if such shapes should be considered "parts of structures" under item 652.98, there would be no reason to include item 609.92 in the schedule at all.
>
> It seems reasonably clear that the intention of the drafters of the proposed revised tariff schedules was to cover all fabricated structural steel shapes in item 609.92 and not by the general words "parts of structures" in the caption preceding item 652.98.
>
> Paragraph 9 of the general headnotes and rules of interpretation of the proposed schedules says, in subparagraph (c), that an article described in more than one provision of the schedules is to be classified in the provision which most specifically describes it—in this case, item 609.92.
>
> Secondly, subparagraph (g) of paragraph 9 says that a provision for "parts" of an article covers a "product" solely or chiefly used as a part of such article, though it does not prevail over a

specific provision for such a part. Thus, "parts of a structures" must mean "metal products," which is the subject of part 3 of schedule 6. Since angles, shapes, and sections are not "products," but basic shapes and forms under part 2 of scehdule 6, fabricated structural steel shapes are by definition excluded from item 652.98.

Furthermore, the caption preceding item 652.98 enumerates such articles as door and window frames, shutters, balustrades, pillars, and columns which are themselves, plainly, distinct products even though intended for use as parts of structures.

This is consistent with the common practice of speaking of automobile parts as covering, for example, carburetors, axles, and brake drums, but not pieces of metal or other materials which go into such parts.

Finally, it seems doubtful that the drafters of schedule 6 intended in this way to effect a tariff increase from 7½ to 19 percent ad valorem, or even that it lies within the authority granted by section 101(d) of the Customs Simplification Act to do so.

* * * * * * *

Notwithstanding the fact that fabricated structural steel shapes would probably be found to come under item 609.92 rather than item 652.98, if the issue were litigated, and notwithstanding the evidence that item 609. 92 was intended to cover such shapes, we join in the suggestion that any possible doubt be removed by appropriate amendment. Clarification could be accomplished in any one of several ways, including the amendment suggested in Mr. Schiller's statement. As a possible alternative, we suggest that the words "other structures and parts of structures" in item 652.98 be changed to read "other structures and products (but not basic shapes and forms) used as parts of structures."

Thereafter, the following colloquy took place between Russell N. Shewmaker, Assistant General Counsel of the Tariff Commission, and the witness Langford (*Id.*, p. 608):

MR. SHEWMAKER. I believe your point is well taken and some clarification is in order and we will give further attention to that.

I would like to ask you a question, though, about the nature of your imports. Are your imports invariably the individual pieces, or do you have any sub-assemblies which, as imported, are in assembled condition?

MR. LANGFORD. * * * They are always individual pieces, Mr. Shewmaker.

MR. SHEWMAKER. Would there ever be any instance where the complete structure would be imported in knocked-down condition?

MR. LANGFORD. The answer would be "No, there would never be a complete structure in one shipment; they would always be knocked down," and, for example, if there were a powerline being built by somebody like the New York State Power Authority, which is a customer of SAE, the shipments would necessarily be

all of the pieces of steel which go into the footings and the legs first for all of the towers in the line and then you would start to get pieces which go higher up on the line of towers.

MR. SHEWMAKER. So you have no assemblies of pieces and no complete towers in a single shipment?

MR. LANGFORD. That is right.

In the final draft, the language preceding items 609.80 and 609.92 was changed (1) by deleting the phrase (which has previously been quoted in italics) "or made by the assembly of components," and (2) by deleting from the language immediately preceding item 609.80 the phrase (which also has previously been quoted in italics) "and not made by the assembly of components." Further, the format of items 609.80 through 609.98 was revised. As the Tariff Commission explained (Tariff Classification Study, pp. 94–95):

> Items 609.80 through 609.98 cover angles, shapes and sections, and sheet piling, of iron or steel. The proposed provisions are derived from paragraphs 304, 305, and principally 312. The provisions of these items have been modified substantially since the public hearing to take care of valid objections which are raised in connection with the hearing. The published provisions were unclear in certain resepcts and also would have increased the rates of duty on significant items of trade. The objections raised by importers on these points have been taken care of in the final proposals. In these items and also in related provisions of part 3F of this schedule (items 652.90 through 652.98) existing customs practices are reflected without significant rate change. * * *

Plaintiff insists that "[f]rom the above, it is clear that the Tariff Commission understood that structural steel shapes as well as angles, shapes and sections are always parts of something, and there would be no room for the operation of the provisions for structural steel shapes and angles, shapes and sections if they were to be classified as 'parts.'" (Br. p. 19) On the contrary, as the witness Schiller testified, it would be "absurd" to interpret the phrase "parts of structures" in item 652.98 as covering all angles, shapes and sections. Tariff Classification Study, p. 584. Nevertheless, to avoid any possible confusion, he suggested that there be added at the end of the caption preceding item 652.98, after the phrase "parts of structures" the words "not provided for in part 2B of this schedule." *Ibid.* The testimony of the witness Langford (as noted previously) was to similar effect, except that he suggested as a possible alternative that the words "other structures and parts of structures" in item 652.98 be changed to read "other structures and products (but not basic shapes and forms) used as parts of structures." Id., p. 608.

In this setting, it is to be observed (as pointed out before) that the Tariff Commission did not adopt the proposed changes in language recommended by the above witnesses but instead deleted from the language preceding items 609.80 and 609.92 the phrase "or made by the assembly of components" and also deleted from the language immediately preceding item 609.80 the phrase "and not made by the assembly of components."

In this connection, without deciding the question, it would appear that an angle, shape and section which is made by the assembly of components is ordinarily so far advanced in manufacture as to constitute a part rather than a material. In this circumstance, it would seem that the reason the Tariff Commission deleted such angles, shapes and sections from the provisions of items 609.80 et seq. was to avoid possible conflict between these provisions and the provision in item 652.98 covering "parts of structures." Be that as it may, what is even more significant in all this is that the Tariff Commission and Congress did not exclude item 609.80 *in any way* from the operative effects of headnote 1(iv). In fact, the only change made in that headnote, as originally proposed, was to add the word "specially" after the word "articles."

VI

In summary, the court holds that the imported rails are "parts" of railroad cars of the kind described in item 690.15 and were, therefore, by virtue of headnote 1(iv), properly classified by the government under item 690.35. Plaintiff's claim for classification under item 609.80 is therefore overruled.

Judgment will be entered accordingly.

Decisions of the United States Customs Court

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *February 25, 1974.*

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

VERNON D. ACREE,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P74/147	Ford, J. February 19, 1974	Fedtro, Inc.	67/13933, etc.	Item 790.55 20%, 18%, 16% and 14%	Item 774.60 17%, 15%, 13.5% and 11.5%	Agreed statement of facts	New York Reflectors, self-sticking plastic safety reflectors, plastic reflectors, reflector sets and words of similar description

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P74/148	Ford, J. February 19, 1974	Fedtro, Inc.	69/798	Item 790.55 20%	Item 774.60 17%	Judgment on the pleadings	New York Self sticking plastic safety reflectors, Models REF-4 and REF-8
P74/149	Ford, J. February 19, 1974	Fedtro, Inc.	69/11704	Item 790.55 18%	Item 774.60 15%	Judgment on the pleadings	New York Self sticking plastic safety reflectors, Model REF-8
P74/150	Ford, J. February 19, 1974	Fedtro, Inc.	70/62730	Item 790.55 14%	Item 774.60 11.5%	Judgment on the pleadings	New York Self sticking plastic safety reflectors, Model REF-4
P74/151	Ford, J. February 19, 1974	E. J. & R. Gindi et al.	66/70198, etc.	Item 651.75 Various ad valorem equivalents set out in schedule of cases attached to decision and judgment	Item 651.75 At appropriate compound rates set forth in said schedule	Import Associates of America et al. v. U.S. (C.A.D. 961)	Los Angeles Flatware sets barbeque sets, tool sets, etc.
P74/152	Ford, J. February 19, 1974	The Singer Company	72-11-02476	Item 672.20 45¢ per 1000 plus 12%; or 37¢ per 1000 plus 10%	Items 670.74/ 670.29 7.5% and 6.5%	Agreed statement of facts	Chattanooga (New Orleans) Tufting needles solely used in tufting machines (which are not sewing machines); machines of the type provided in item 670.29

P74/153	Ford, J. February 19, 1974	Soderhamn Machine Manufacturing Company	61/9123, etc.	Par. 372 11½% or 10½% Par. 353 13¾%	Par. 372 8½% or 7½%	Agreed statement of facts	Portland, Oreg. Chipscreens and parts of chipscreens
P74/154	Watson, J. February 19, 1974	Aldrich Chemical Company, Inc.	73-1-00007	Item 428.26 2.1¢ per lb. plus 10%	Item 429.25 7%	Aldrich Chemical Company, Inc. v. U.S. (C.D. 4458)	Milwaukee 2,2,2-Trichloroethanol
P74/155	Watson, J. February 19, 1974	Aldrich Chemical Company, Inc.	73-1-00008	Item 428.26 1.8¢ per lb. plus 9%	Item 429.25 6%	Aldrich Chemical Company, Inc. v. U.S. (C.D. 4458)	Milwaukee 2,2,2-Trichloroethanol
P74/156	Watson, J. February 19, 1974	Aldrich Chemical Company, Inc.	73-2-00544	Item 428.26 2.1¢ per lb. plus 10%	Item 429.25 7%	Aldrich Chemical Company, Inc. v. U.S. (C.D. 4458)	Milwaukee 2,2,2-Trichloroethanol
P74/157	Watson, J. February 19, 1974	Campana Art Products, Inc., et al.	68/53870, etc.	Item 748.20 28%, 25% or 23.5%	Item 774.60 17%, 13.5% or 11.5%	Armbee Corporation et al. v. U.S. (C.D. 3278) Zunold Trading Corporation et al. v. U.S. (C.D. 3279)	Philadelphia Artificial flowers, etc.
P74/158	Watson, J. February 19, 1974	Hayman & Lindenberg, Inc.	69/42216, etc.	Item 748.20 25%	Item 774.60 13.5%	First American Artificial Flowers, Inc. v. U.S. (C.D. 4185) Joseph Markovits, Inc. v. U.S. (C.D. 4396)	New York Plastic artificial ferns, etc.
P74/159	Watson, J. February 19, 1974	Hayman & Lindenberg, Inc.	70/33635, etc.	Item 748.20 23.5%	Item 774.60 11.5%	First American Artificial Flowers, Inc. v. U.S. (C.D. 4185) Joseph Markovits, Inc. v. U.S. (C.D. 4396)	New York Plastic artificial ferns, etc.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P74/160	Watson, J. February 19, 1974	Edgar Moser, Inc.	67/79301, etc.	Item 748.20 28% or 26.5%	Item 774.60 17% or 15%	Armbee Corporation et al. v. U.S. (C.D. 3278) Zunold Trading Corporation et al. v. U.S. (C.D. 3279)	New York Artificial flowers, etc.
P74/161	Maletz, J. February 19, 1974	American Rusch Corp.	70/43079, etc.	Item 686.70 or 709.15 28.5% or 25%	Item 685.80 6% or 5.5%	American Rusch Corp. v. U.S. (C.D. 4115)	New York Electric filament lamps
P74/162	Re, J. February 19, 1974	Propper Mfg. Co., Inc.	70/10248	Item 709.05 45%	Item 709.17 10.5%	Judgment on the pleadings	New York Otoscope battery handles
P74/163	Ford, J. February 20, 1974	Castelazo & Associates, a/c Palley Supply Co. et al.	67/59700, etc.	Item 651.75 Various ad valorem equivalents set out in schedule A attached to decision and judgment in column headed Assessed Rate	Item 651.75 At appropriate compound rate set forth in said schedule.	Import Associates of America et al. v. U.S. (C.A.D. 961)	Los Angeles Flatware sets, barbeque sets, tool sets, etc.
P74/164	Ford, J. February 20, 1974	Marubeni Iida (America), Inc.	67/31377, etc.	Item 684.70 15% (items marked "A") Item 706.08 or 791.65 20% (items marked "B")	Item 685.22 12.5% (items marked "A" and "B")	General Electric Company v. U.S. (C.D. 3887, aff'd C.A.D. 1021) (items marked "A") Lafayette Radio Electronics Corp. v. U.S. (C.A.D. 977) (items marked "B")	New York Earphones (items marked "A") Radio cases (entireties) (items marked "B")

P74/165	Ford, J. February 20, 1974	National Silver Company	70/26807, etc.	Item 651.75 At various ad valorem equivalents set out in schedule A attached to decision and judgment in column headed Assessed Rate	Item 651.75 At appropriate compound rate set forth in said schedule	Import Associates of America et al. v. U.S. (C.A.D. 961)	Los Angeles Flatware sets, barbeque sets, tool sets, etc.
P74/166	Ford, J. February 20, 1974	Nichimen Co., Inc.	68/24515, etc.	Item 684.70 15%	Item 685.22 12.5%	Summary Judgment	Chicago Earphones
P74/167	Ford, J. February 20, 1974	Randa, Inc.	67/13159	Item 651.75 Various ad valorem equivalents set out in schedule A attached to decision and judgment in column headed Assessed Rate	Item 651.75 At appropriate compound rate set forth in said schedule (1¢ each plus 12½%)	Import Associates of America et al. v. U.S. (C.A.D. 961)	Los Angeles Flatware sets
P74/168	Maletz, J. February 20, 1974	American Laubscher Corp.	68/42735, etc.	Item 730.93 16%	Item 680.45 8%	American Laubscher Corp. et al. v. U.S. (C.D. 4006)	New York Pinions and gears and assemblies thereof

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	UNIT OF VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R74/128	Richardson, J. February 19, 1974	The Florsheim Shoe Company, Division of Interco, Inc.	R70/2483	Foreign value: Appraised unit values, net, packed, less 1 percent cash discount	Not stated	Agreed statement of facts	Chicago Calf upper leather
R74/129	Watson, J. February 19, 1974	Cavalier Shipping Co., Inc., et al.	R69/10252, etc.	Export value: Entered value, in each case, which is the invoice unit price less nondutiable charges	Not stated	Cavalier Shipping Co. v. U.S. (C.D. 4317, aff'd C.A.D. 1103)	Norfolk Methyl bromide with 2% chloropierin which is a halogenated hydrocarbon held properly classifiable under item 429.48 in C.D. 4317, *supra*
R74/130	Re, J. February 19, 1974	Biddle Purchasing	R61/5681, etc.	Export value: Net appraised value less 7¼% net packed	Not stated	U. S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Boston Japanese plywood

R74/131	Re, J. February 19, 1974	United States Plywood Corp.	R59/12196, etc.	Export value: Net appraised value less 7¼%, net packed	Not stated	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Baltimore Japanese plywood
R74/132	Ford, J. February 20, 1974	A & A Trading Corp.	73-3-00786-S	Constructed value	Listed on schedule attached to decision and judgment in columns designated "Claimed Values" for each imported article, net packed	Agreed statement of facts	Los Angeles Radios imported with batteries and clock radios
R74/133	Ford, J. February 20, 1974	A & A Trading Corp.	73-3-00787	Constructed value	Listed on schedule attached to decision and judgment in columns designated "Claimed Values" for each imported article, net packed	Agreed statement of facts	Seattle Various radios imported together with batteries and clock radios
R74/134	Watson, J February 20, 1974	Meadows Wye & Co., Inc., et al.	R63/9411, etc.	Constructed value: Invoice unit values in U.S. currency	Not stated	Meadows Wye & Co., Inc. v. U.S. (R.D. 11706)	New York Cosmetic preparations
R74/135	Re, J. February 20, 1974	Biddle Purchasing Co. et al.	R61/8274, etc.	Export value: Net appraised value less 7¼%, net packed	Not stated	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Los Angeles Japanese plywood
R74/136	Re, J. February 20, 1974	Jacoberg Overseas, Inc.	R59/101, etc.	Export value: Net appraised value less 7¼%, net packed	Not stated	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Los Angeles Japanese plywood
R74/137	Re, J. February 20, 1974	Pan Pacific Overseas Corp.	R61/4147, etc.	Export value: Net appraised value less 7¼%, net packed	Not stated	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Tacoma (Seattle) Japanese plywood

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	UNIT OF VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R74/138	Re, J. February 20, 1974	Pan Pacific Overseas Corp.	R61/9077, etc.	Export value: Net appraised value less 7¼%, net packed	Not stated	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Detroit Japanese plywood
R74/139	Re, J. February 20, 1974	United States Plywood Corp.	R58/17072, etc.	Export value: Net appraised value less 7¼%, net packed	Not stated	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Norfolk Japanese plywood
R74/140	Re, J. February 20, 1974	United States Plywood Corp.	R61/4173, etc.	Export value: Net appraised value less 7¼%, net packed	Not stated	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Seattle Japanese plywood

Tariff Commission Notices

Investigations by the United States Tariff Commission

DEPARTMENT OF THE TREASURY, *March 7, 1974.*

The appended notices relating to investigations by the United States Tariff Commission are published for the information of Customs officers and others concerned.

VERNON D. ACREE,
Commissioner of Customs.

[TEA–W–226]

WORKERS' PETITION FOR A DETERMINATION UNDER SECTION 301(c)(2) OF THE TRADE EXPANSION ACT OF 1962

Notice of investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Cranbar Corp., Ponce, Puerto Rico, a wholly owned subsidiary of Uniroyal, Inc., New York, New York, the United States Tariff Commission, on February 22, 1974, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear (of the types provided for in item 700.60 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the *Federal Register.*

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, N.W., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

KENNETH R. MASON,
Secretary.

Issued February 25, 1974.

[TEA–W–227]

WORKERS' PETITION FOR A DETERMINATION UNDER SECTION 301(c)(2) OF THE TRADE EXPANSION ACT OF 1962

Notice of investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of Clippard Instrument, Inc., Paris, Tennessee, the United States Tariff Commission, on February 26, 1974, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with coils (of the types provided for in items 682.05 and 682.60 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the *Federal Register.*

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, N.W., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission:

KENNETH R. MASON,
Secretary.

Issued February 27, 1974.

[AA1921–140]

REGENERATIVE BLOWER/PUMPS FROM WEST GERMANY

Notice of investigation and hearing

Having received advice from the Treasury Department on February 22, 1974, that regenerative blower/pumps from West Germany are being, or are likely to be, sold at less than fair value, the United States Tariff Commission on February 26, 1974, instituted investigation No. AA1921–140 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets, N.W., Washington, D.C. 20436, beginning at 10 a.m., E.D.T., on Tuesday, April 2, 1974. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its office in Washington, D.C., not later than noon Thursday, March 28, 1974.

By order of the Commission:

KENNETH R. MASON,
Secretary.

Issued February 27, 1974.

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